UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,666	01/15/2002	Michael E. Barrett	101-0005US	5277

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EXAMINER
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ART UNIT	PAPER NUMBER
2165	

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Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/047,666	BARRETT ET AL.
	Examiner	Art Unit	
	Sam Rimell	2165	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-27* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-27* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
      application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

**SAM RIMELL
PRIMARY EXAMINER**

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 20-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 20: The phrase "enhanced population score" is confusing, and apparently should be "enhanced popularity score".

Claim 21: Depends on claim 20.

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-5 and 9-14 are rejected under 35 U.S.C. 101 because the claimed invention is non-statutory.

Claims 1, 3 and 9: Independent claims 1, 3 and 9 are each directed to methods which can be achieved via mental calculations or calculations with a pencil and paper. Accordingly, the language of each claim raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a useful, concrete and tangible result, to form the basis of statutory subject matter under 35 USC 101.

Claims 2, 4-5 and 10-14: Depend from claims 1, 3 or 9 respectively.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Edlund et al. (U.S. Patent 6,546,388).

Claim 1: Col. 8, line 40-62 describe the performance of a search query. The query produces search results. The search results are weighted using a calculated relevancy score (col. 10, lines 60-63, describing steps 5-6). The score is based on popularity counts as an inflation factor. As described at col. 9, lines 45-50, the popularity count is only incremented for the newest version of a website (version 0), which means that the popularity count weighs the newest version more heavily than any previous versions.

Claim 2: As seen from the table of col. 9, lines 36-42, the popularity is a count of previous hits or uses of the same website.

Claim 3: The ranking scheme disclosed Edlund et al. involves taking a search result and a relevancy score and weighting the search results based on the relevancy score. As described at col. 9, lines 45-50, the popularity count is the basis of the relevancy score and the popularity count is only incremented for the newest version (version 0) of a website. This means that the popularity count weights the newest version more heavily than any other version.

Claim 4: The popularity counts described at col. 9, lines 36-42 form a weighting value for each search result. This weighting value is an inflation score. The inflation score is adaptive in that it can constantly change (the popularity counts change as the website receives more hits).

Claim 5: The overall rank applied to the search results is a blend of three factors: (1) content relevance value (2) popularity; and (3) document recency.

Claim 6: The table illustrated in col. 9, lines 36-42 is a database. It is a relational database having rows related to columns. The popularity score is shown in the far right column. The score is enhanced by the inclusion of version numbers. The URLs are the information that is indexed in the database. The popularity counts are the claimed popularity scores. As described at col. 9, lines 45-50, the popularity count is only incremented for the newest version of a website (version 0). This means that the popularity count weights the newest version more heavily than any other previous version.

Claim 7: The information in the database of col. 9, lines 36-42 are URLs derived from the Internet.

Claim 8: Each URL is a discrete piece of data that is wholly contained with the database table of col. 9, lines 36-42.

Claim 9: Col. 10, lines 45-57 describe a search query producing search results. Each search result has an enhanced popularity score (calculated relevancy value-col. 10, lines 61-62) that is weighted by time decay rate (popularity counts—correlating to number of hits over time, col. 9, lines 35-41). As described at col. 9, lines 45-50, the popularity counts only increment the most recent version of a website (version 0). If no additional websites versions appear, this count will continually increase over time and exceed the counts for previous versions.

Claim 10: The time decay rate (popularity count) is incremented (i.e. modified) for each use.

Claim 11: The enhanced popularity score (calculated relevancy value-col. 10, lines 61-62) is influenced by use rates (popularity counts).

Claim 12: The values in the popularity count column of col. 9, lines 36-42 are static values for the older version. For the newest version (version 0), the popularity count can be static or can change with hits to the newest version (col. 9, lines 43-52).

Claim 13-14: Incrementing the popularity count of the newest version is considered a dynamic reassessment.

Claim 15: The popularity counts (number of hits over time) are the time decay rates. As seen in the table of col. 9, lines 35-42, there are highest and lowest decay rates (highest and lowest popularity counts). The enhanced popularity scores are the calculated relevancy values based on the popularity counts (col. 10,lines 60-61). The use history is the complete table at col. 9, lines 35-42. The enhanced popularity scores can be calculated for each search query, which means that there can be two or more such scores. The popularity counts are the time decay rates and are incremented only for the newest version of a web site (col. 9, lines 45-50). If no additional websites appear, this count will increase over time and exceed the counts for previous versions.

Claim 16: The weighting factor is popularity count, which is a rate of use of certain URLs during the time period of measurement.

Claim 17: See remarks for claim 11.

Claim 18: Popularity counts correlate to website traffic.

Claim 19: The popularity counts are calculated by the computer system incrementing a counter. A calculation is readable as an estimate, lacking any further details on how the estimate is made or what kind of estimate is made.

Claim 20: Col. 8, lines 66-67 calls for the retrieval data from documents and the calculation of the documents age. The only manner in which such a calculation could be performed is if the document was time and date stamped and the calculation of document age determined from the time and date stamp. The age of the document is input to a relevancy calculator (col. 9, lines 1-2) which calculates a relevancy score (col. 10, lines 60-61). This score reads as the claimed enhanced "population" score. The enhanced "population" score also considers popularity counts that are only incremented on the newest version of a website (col. 9, lines 45-50). As a result, the popularity count used to form the enhanced "population" score weighs more heavily on the newest version of a website than on any previous version.

Claim 21: The age of the document is calculated (col. 8, lines 66-67).

Claim 22: See remarks for claims 20 and 21.

Claim 23: Claim 23 is directed to the intended usage of the code in allowing a user to perform certain actions. It does not define the content of the code and is thus a recitation of intended usage which carries no patentable weight (MPEP 2106, Section C, Example A).

Claim 24: FIG. 2 illustrates a memory (0208) for storing information related to user queries. The information is ranking information derived from the results of the queries. Col. 10, lines 50-68 illustrates a computer controlled algorithm that creates a popularity score (calculated relevance value—step 5) in response to a request. The score is modified by factors such as version recency and popularity counts (step 5). Since the popularity count used to generate the

score increments only the most recent websites (col. 9, lines 35-42 and lines 45-50), the popularity count weighs more heavily the newest websites.

Claim 25: The information (search results) may include links to websites (URLs—col. 9, lines 36-42).

Claim 26: The system described at col. 8, line 55 through col. 9, line 6 describe weighting factors that can ultimately modify the final score. These factors are described at col. 8, lines 61-62) are invoked when search results are received.

Claim 27: See col. 8, lines 66-67.

Remarks

This office action follows the filing of an RCE and is made non-final.

This action includes new grounds of rejection under 35 USC 101 and 35 USC 112.

Applicant's arguments are primarily directed to the newly amended features calling for inflation factors or the enhanced popularity score weighing more heavily new uses as opposed to older uses. Applicant argues that Edlund et al. lacks this feature.

However, examiner finds that Edlund et al. actually has this feature. As seen in col. 9, lines 35-42 a table is maintained of popularity counts for each version. This count is an inflation factor and forms a factor in the overall enhanced popularity score, which correlates to the calculated relevance value described at col. 10, lines 60-61. This factor only increments on the newest version of a website (col. 9, lines 45-50). As a result, this factor weighs newer versions more heavily than older version, since older versions are not further incremented in their popularity count, whereas newer versions are the only ones incremented. This feature is recited in claims 1, 3, 6, 9, 15, 20, 22 and 24, so the same rationale applies for each of these claims.

This action is made non-final.

Any inquiry concerning this communication should be directed to Sam Rimell at

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